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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----x
4 IN RE TETHER AND BITFINEX
5 CRYPTO ASSET LITIGATION

19 Civ. 9236 (KPF)

6 New York, N.Y.
7 October 31, 2023
8 3:45 p.m.

9 Before:

10 HON. KATHERINE POLK FAILLA,

11 District Judge

12 APPEARANCES

13 SELENDY GAY ELSBERG PLLC
14 Attorneys for David Leibowitz

15 BY: ANDREW R. DUNLAP

16 LAURA M. KING

17 OSCAR SHINE

18 -and-

19 SCHNEIDER WALLACE COTTRELL KONECKY LLP

20 BY: SUNNY S. SARKIS

21 DEBEVOISE & PLIMPTON LLP

22 Attorneys for iFinex Inc.

23 BY: ELLIOT GREENFIELD

24 NATASCHA BORN

25 WILLKIE FARR & GALLAGHER LLP

Attorneys for Philip G. Potter

BY: ANDREW N. SHINDI

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1 (Case called; appearances noted)

2 THE COURT: Thank you.

3 Let me begin by thanking all of you for your patience.
4 Just in case you were wondering what's been occupying my time
5 these past couple of days, I have a Hague Convention parental
6 kidnapping hearing. That's what you walked in on where my
7 petitioner is in Poland and, for various reasons, cannot enter
8 this country, and as a result, we have very difficult virtual
9 hearings in part. So I appreciate your patience through all of
10 those.

11 This is, in theory, our post fact discovery
12 conference. I have read a number of things in connection with
13 this, including the joint status update of October 27th. What
14 you might understand is sort of operating beneath the surface
15 and making me think is, what to do with this request for leave
16 to file a second amended complaint. When I saw it, I knew
17 Mr. Greenfield enough – and I say this with all the respect I
18 have for him – to know that he'd object and he wasn't going to
19 consent and let this happen. That led me to wonder why we're
20 doing this. I thought before I had actually really read the
21 proposed amended complaint or the prior two, that this was
22 really designed to ease the parties when it came to the class
23 certification motion. But in looking at the red line, it
24 looked to me as though it was a much more, a much different, a
25 much more substantively altered amended complaint.

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1 And so, I'm trying to figure out, and I mean this very
2 sincerely, because if I had my decision already made, I
3 wouldn't be asking these questions, but I guess I really do
4 want to understand why we need to file this amendment. Why,
5 for example, we couldn't proceed to the certification motion on
6 the pleading as it now exists or to summary judgment on the
7 pleading with the record we now have, and what is really gained
8 with the amendment. And then I'll hear, with greater
9 specificity than one paragraph in a joint letter, why the
10 defendants do not agree.

11 So perhaps, Mr. Dunlap, I'll begin with you.

12 MR. DUNLAP: Yes. Thank you, your Honor.

13 So, to be clear, we believe that the revised claims
14 that we're putting forward in the proposed amended complaint
15 fall within the claims that we pled in the current operative
16 complaint. They allege a debasement of USDT, they involve a
17 funneling of that USDT to two crypto accounts on Bittrex and
18 Poloniex exchanges, the trading of that USDT for crypto
19 commodities, and a resulting inflation of crypto commodity
20 prices, especially Bitcoin prices.

21 What we attempted do in the amended complaint is lay
22 out the particulars we learned in discovery of how the USDT was
23 debased, how the USDT was funneled to those two accounts, and
24 then put an expert analysis for how the inflation occurred. We
25 believe that we could proceed to class certification within the

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1 current pleadings because our current operative theory is a
2 subset of what we're putting forward.

3 We thought it made sense to come now to move to
4 conform the pleadings to the evidence that's in discovery so
5 that we could streamline the case. There are certain parties
6 that we want to drop, there are certain claims that we want to
7 drop, there's a more modest class period that we want to
8 pursue, and we wanted to give you and the other side as much
9 notice as possible of where we see the state of the pleadings
10 following discovery, so we moved to amend as promptly as we
11 could following the close of discovery so that we could make
12 sure that everything learned in discovery was on the table now.

13 We're happy to proceed however you would like. We
14 thought this would actually be a benefit to the Court and to
15 the other side.

16 THE COURT: Sir, if we were proceeding to summary
17 judgment rather than class certification motion, would you
18 still feel the need to have a proposed amended complaint of
19 this type? I would imagine at that point we would just go to
20 the record and I'd have 56.1 statements that tell me what
21 happened in discovery or what didn't happen in discovery. So I
22 guess I'm asking, I appreciate the extent to which you believe
23 it's going to help me and to help defense counsel, but is the
24 animating principle of the amended complaint the upcoming
25 certification motion or something else?

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1 MR. DUNLAP: It's a couple of things. One is the
2 upcoming certification motion, because we wanted to be
3 absolutely clear where we view the pleadings right now. And
4 when we move for certification on the 20th, we will be moving
5 on the theories that are in our proposed amended complaint,
6 which, as I said, are a subset of what are already in the
7 current operative complaint. But we also, following discovery,
8 now wanted to drop some parties, drop some claims, and
9 streamline the case, and we thought the amended complaint was a
10 good vehicle for doing that.

11 We also wanted to avoid any confusion that might occur
12 in the class certification briefing about exactly what we're
13 moving on. And as you pointed out, the other side had said in
14 their letter that they have some issues with the new theories,
15 as they call them, that we're putting forward. So we wanted to
16 make sure that was all on the table as far in advance of class
17 certification as possible.

18 THE COURT: You're actually anticipating my next
19 question, which is this: I appreciate that you believe that
20 the next step in this case is a class certification motion that
21 I fear some poor associates or core of associates have been
22 working on. The issue for me is, I'm understanding from
23 Mr. Greenfield that he wants to basically jump the line on that
24 motion and to file perhaps a motion to dismiss. If he doesn't
25 consent, I don't believe -- I perhaps could grant, over his

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1 objection, but I don't think I'd do it without having more
2 detailed or robust briefing from him in opposition. So I fear
3 where we're headed is a motion for leave to amend that is
4 contested with sort of a cross motion or suggestion that the
5 claims, as you propose to plead them, are futile. I don't see
6 how I can do that with the certification motion, and that's
7 also why I'm asking whether it is still your wish to file an
8 amended complaint.

9 You said to me, and you were very kind to say to me
10 earlier whatever the Court wants, basically. I want to be sure
11 that I'm hearing from everybody if it is your wish to file the
12 amended complaint, I do think it there has to be motion
13 practice preliminary to that. I do think that would result in
14 us having to adjourn for some period of time the class
15 certification motion and then - I want to breathe deeply as I
16 say this - I'd hear from the parties as to whether I need to
17 adjourn expert discovery while we work out what is the pleading
18 in this case.

19 None of these things are what I want to do, but that
20 might be what fairness dictate. I'll hear from you on this,
21 then I'll hear from the folks it at the back table.

22 MR. DUNLAP: Your Honor, I want to make absolutely
23 clear it was not our intent by filing the motion for leave to
24 amend to push out the schedule in any way. That's why I wanted
25 to make clear that we thought we could move for class

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1 certification independent of whatever the Court does on the
2 motion for leave to amend. We think they could proceed in
3 parallel because you could both look at our current motion or
4 our upcoming motion for class certification as a subset of what
5 the current pleadings allow, but then you could also allow,
6 them if they wanted to opposes on futility grounds, the
7 restated claims that we put into the proposed amended
8 complaint.

9 But we're not trying to slow things down --

10 THE COURT: I'm not suggesting you are. I just wonder
11 if that's where things are going to shake out.

12 What I'm saying and what I'm exploring at this point
13 is it wouldn't shock me for someone to say, look, Failla, until
14 we know what the operative pleadings are, we shouldn't do a
15 certification motion, although I do think you might be able to.
16 And then related to that, I would think someone may say --
17 although I'm fine if no one says this -- we really should wait
18 on experts until we know what the claims in the case are.

19 MR. DUNLAP: I can understand that point of view.

20 One thing I've learned very deeply, I think all the
21 lawyers here in this case, is if delay can be avoided, we
22 should avoid delay.

23 THE COURT: I'm not disagreeing with that.

24 MR. DUNLAP: We are open, I think, to whatever
25 arrangement the Court would think best, and I'm sure you want

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1 to hear from the other side on this, but --

2 THE COURT: Your proposal is running the two motions
3 in tandem?

4 MR. DUNLAP: Correct.

5 THE COURT: Thank you.

6 Mr. Greenfield, are you speaking for the back table or
7 is someone else?

8 MR. GREENFIELD: Yes, I can take the lead here.

9 THE COURT: Have I misperceived your argument, sir?

10 MR. GREENFIELD: No, I think you have our arguments
11 generally correct. I think the red line that plaintiff
12 submitted yesterday speaks for itself in large part, this is
13 not a motion to amend to conform to the evidence, this is an
14 entirely new theory.

15 I'm happy to walk through that in some detail if
16 you're interested or I can save it for the briefing.

17 THE COURT: You can hum a few bars now, sir. That's
18 okay.

19 MR. GREENFIELD: I think the best summary of their
20 existing complaint is in your decision on the motion to
21 dismiss. And so, I'll just point you to page 16 of your
22 decision granting in part, denying in part the motion to
23 dismiss where you state the crux of plaintiff's amended
24 complaint is that the DigFinex defendants, now known as the DT
25 defendants, who control Tether and Bitfinex fraudulently issued

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1 between one and three billion dollars worth of crypto asset
2 USDT, which asset defendants claim was backed at all times by
3 an equivalent amount of U.S. dollars reserves, but was in fact
4 completely unbacked and printed out of thin air.

5 Plaintiffs allege that the unbacked USDT was
6 transferred from Tether to Bitfinex and then further
7 transferred to accounts maintained by Bitfinex on two crypto
8 exchanges operated by the exchange defendants Poloniex and
9 Bittrex.

10 Once the unbacked USDT was transferred to Poloniex and
11 Bittrex, defendants used it to make carefully timed purchases
12 of crypto commodities when prices threatened to fall, thereby
13 fraudulently given the appearance of price floors in the
14 market, artificially simulating organic demand and creating a
15 colossal bubble in the crypto commodity market and they go on
16 to say that plaintiffs allege that we conspired with the crypto
17 capital defendant and the exchange defendants.

18 And really, none of that is in their new theory.
19 There's no more conspiracy with Poloniex, no conspiracy with
20 Bittrex, no conspiracy with Crypto Capital. It's now alleged
21 to be a conspiracy with the anonymous trader. There's no more
22 Bitfinex or Tether owned or controlled accounts at Poloniex or
23 Bittrex. Plaintiffs finally admit that those accounts were
24 owned by the anonymous trader as he told them in a sworn
25 declaration three years ago. There's no more allegation that

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1 USDT was printed out of thin air. There's no allegation
2 anymore that any USDT was traded for Bitcoin or otherwise that
3 had not been purchased for a dollar. So there's no way that
4 there is artificial demand or simulating artificial --
5 artificially simulating organic demand. All of the USDT was
6 purchased for dollars, no allegation otherwise. There's no
7 more carefully timed purchases of crypto commodity. There's no
8 trading by the BT defendants at all. They rely on simply the
9 anonymous traders cross exchange arbitrage.

10 So it really, in every way, it's a new theory. I
11 think at the highest, not even 30,000-foot level, but looking
12 from outer space, they're alleging there's an issue with USDT
13 reserves, and they're alleging price inflation, but really,
14 everything in between is entirely new. And in my view, and
15 just my view as the defense lawyer here, this new theory is
16 weaker than the existing theory. I think it does not plausibly
17 state a claim.

18 THE COURT: This is what distresses me, sir, because
19 Mr. Dunlap says to me that it is as though there were -- that
20 the theory as originally alleged had multiple components and we
21 are now at a subset. I know you disagree with it, but that is
22 what I was just told, that, as he said, claims of the proposed
23 amended complaint fall within the claims in the -- presumably
24 the initial complaint and the post motion to dismiss amended
25 complaint.

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1 I appreciate, under Rule 15 and Rule 16, that you
2 would oppose amendment this late in the day. You've already
3 heard me discuss with Mr. Dunlap whether there are
4 circumstances in which we wouldn't even need to amend the
5 complaint, as for example proceeding to summary judgment.

6 I think what concerns me though is your -- you oppose,
7 but you would also move to dismiss. So presumably, the way
8 that that would be resolved would be for you responding to the
9 existing motion for leave to file a proposed amended complaint
10 with an opposition that includes a long discussion of futility.
11 That's effectively your motion to dismiss; correct?

12 MR. GREENFIELD: Yes. And we can -- I was going to
13 raise this with the Court. I think we could do it two
14 different ways. We could have an opposition to their motion to
15 amend that focuses on their lack of good cause for delaying for
16 two years and pointing out 90 percent of the facts in their new
17 theory were available to them two years ago, and the prejudice.
18 And we could separately, if the Court then allows the
19 amendment, have a motion to dismiss.

20 Alternatively, we can, if it's helpful to the Court,
21 we can put it all in one place, we could put it in our
22 opposition brief. If we're going to do that, then I
23 reluctantly would request a few more pages and a little bit
24 more days. I never like to ask for more pages --

25 THE COURT: I know, but I appreciate why you believe

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1 you have to, because this is the motion to dismiss that I'm not
2 letting you file.

3 MR. GREENFIELD: Yes.

4 THE COURT: You would be doing it through the prism of
5 futility. I think I know the answer to this, but I have to
6 ask, you're not consenting in any circumstance to the filing of
7 this proposed amended complaint?

8 MR. GREENFIELD: That's correct.

9 THE COURT: Thank you.

10 Mr. Shindi, are you in the same boat, sir, as it were?

11 MR. SHINDI: Yes, your Honor.

12 THE COURT: Are you making separate arguments or are
13 you co-signing Mr. Greenfield's arguments this afternoon?

14 MR. SHINDI: No, we are co-signing with
15 Mr. Greenfield's arguments this afternoon.

16 And just to reiterate again that Mr. Potter is an
17 individual in this case, and so want to be mindful of any
18 additional burden he might face.

19 THE COURT: Of course. Thank you.

20 MR. SHINDI: Thank you.

21 THE COURT: Mr. Greenfield, there's going to be have
22 to be motion practice of some sort. I don't want to cut you
23 off, but there are other things you want to speak about on the
24 issue of futility or the propriety of the amendment or the
25 interplay of Rule 15 and Rule 16, because I think I am familiar

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1 with those concepts.

2 When you are done telling me that, I would like you to
3 please engage in Mr. Dunlap's proposal of having the motion for
4 leave to amend proceed in parallel with the motion for class
5 certification. My gut reaction is scepticism, but I think
6 that's just as the judge who would have to decide both of them.
7 If you believe as well, sir, that the two motions can proceed
8 in parallel, I'll hear from you.

9 MR. GREENFIELD: I think I share your scepticism. I
10 think in terms of the class period, they can always -- they're
11 not bound by whatever class periods are in their complaint,
12 they can move to certify a class for whatever period they
13 choose. Similarly, if they want to drop parties or claims,
14 they can do that without an amended complaint.

15 Whether or not they can proceed in parallel, I think
16 the issue that jumps out at me is that they have, at least in
17 our view, very different theory of liability. And if they're
18 going to argue that injury and damages are class issues and not
19 individual issues, their damages model or their explanation of
20 injury.

21 THE COURT: May I ask you to repeat that sentence? I
22 was taking notes and you were just a bit ahead of me, sir.

23 MR. GREENFIELD: No problem. The one issue that
24 jumped out at me in proceeding in parallel is that if
25 plaintiffs are going to argue that injury and damages are

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1 class-wide issues, then their theory of injury and damages has
2 to match up with their theory in the complaint. We think that
3 it's a pretty different theory in their proposed second amended
4 complaint from their existing complaint. So I think they need
5 to choose which theory they're following if they're going to
6 make that argument. If they're going to concede that injury
7 and damages are individual issues, which I doubt they will,
8 then maybe that's not a problem.

9 I guess one other thought on that is it's not totally
10 clear to me from their complaint, I'll admit, but there's some
11 suggestion in their complaint that parties were injured if they
12 purchased during certain periods when they say USDT was debased
13 because there was an outstanding receivable. It's not clear
14 they're saying a person was injured if they bought Bitcoin
15 during a period when there was no outstanding receivables. So
16 the class definition might also depend on first amended
17 complaint versus proposed second amended complaint.

18 THE COURT: What else should I ask, sir?

19 MR. GREENFIELD: Nothing you don't already know. I
20 will sit.

21 THE COURT: Actually, before you sit down, let me
22 please look at my notes. Right now, the class certification
23 motion is due on November 20th. Remind me, please, sir, what's
24 the schedule for expert discovery in this case or does that
25 follow the certification motion?

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1 MR. GREENFIELD: That follows the decision on the
2 certification motion.

3 THE COURT: So that isn't happening now any way you
4 look at it.

5 MR. GREENFIELD: There's experts only in class cert.

6 THE COURT: Yes, so what's available to me scheduling
7 one motion, scheduling two motions basically. No chance of
8 settlement; right?

9 MR. GREENFIELD: I don't think so.

10 THE COURT: Thank you.

11 Mr. Dunlap I'll hear new reply, please.

12 MR. DUNLAP: Yes, your Honor, you asked him to hum a
13 few bars of his theory. I don't know how much accountability
14 you want. We think it is within what we said before, there is
15 theory put forward in the proposed amended complaint they did
16 create USDT without having sufficient U.S. dollars and we have
17 cited or we can show you, actually, things from discovery where
18 they concede that they didn't actually have in their bank
19 accounts the U.S. dollars necessary to back the USDT that was
20 in circulation throughout the class period.

21 And when they say that the conspiracy that was
22 originally pled involved the exchange defendants and the crypto
23 capital defendants, there are reasons we're not pursuing those
24 now. Bittrex is in bankruptcy. There is a severe collection
25 risk. We're not going to get anything from them. Poloniex,

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1 the current Poloniex defendants sold its position to another
2 entity and we've had a very limited opportunity to get
3 documents from them again, and they've agreed to some limited
4 cooperation with us, so we thought it best to let them go.

5 Crypto Capital's assets are still being seized.
6 Defendant Fowler has been sentenced to something like 75 months
7 in prison. Again we think the collectability issues with those
8 defendants is severe, which is why we're letting them go.

9 As to the idea that somehow conspiracy or collusion
10 with the anonymous trader is new, I would refer the Court to
11 the filings the parties made back in 2020. You may recall the
12 exchange defendants came forward and said wait a minute, these
13 accounts are actually owned by the anonymous trader, not by
14 Bitfinex. They said can we move for summary judgment on that
15 basis.

16 We put in a letter, this is docket 137, we said then
17 if an individual, not Bitfinex is the registered owner of the
18 1J1D and 1886 account, the complaint lays out numerous facts
19 more than reasonable to infer the owner was part of defendant's
20 scheme. We went on. Plaintiffs could disprove the assertion
21 that the account's owner was not part of the defendant's scheme
22 through evidence linking the individual to the defendants.
23 Plaintiffs could obtain such evidence through discovery such
24 as: One, the individual's communications with the relevant
25 defendants; two, defendant's trading records for Bittrex and

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1 Poloniex; three, the individuals and the relevant defendants
2 internal documents regarding that trading activity; four,
3 expert analysis of that trading activity; and five, depositions
4 of the individual and defendants regarding the individual's
5 role in the scheme.

6 They were on notice three years ago that we were
7 pursuing, in discovery, connections between the anonymous
8 trader and the defendants .that's what we did. We got all of
9 their communications or at least as many as they would produce
10 with the anonymous trader, we got his trading records, we got
11 their internal communications about him. We submitted him to
12 deposition, they got to depose him, where they did not use all
13 their time. For them to come forward now and say this is a
14 complete surprise and some new theory they haven't heard of, we
15 just don't think is backed up by the facts here.

16 THE COURT: I believe one of the other things
17 Mr. Greenfield said was the information that's now being
18 presented in the proposed amended complaint – and I say this
19 without opining on it because I don't know – was information
20 that was in your possession years ago.

21 MR. DUNLAP: Some of the information was, but a lot of
22 the information was not. Your Honor may recall that you
23 compelled them to produce certain financial records over a year
24 ago and it turns out they didn't produce all those records.
25 And I think you had to issue a total of three orders, the last

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1 one I believe at the end of May of this year requiring them to
2 produce documents. They didn't finish making that production
3 until the end of June. We then had to have our experts look at
4 that information. We started requesting depositions, we asked
5 for them starting in August, but with one exception where we
6 had a conflict. They did not make their employees and their
7 witnesses available to us for deposition until the middle of
8 September. And in fact, your Honor may recall, the first of
9 those deponents they tried to push off for a month at the last
10 minute and we had to come to your Honor to compel that to go
11 forward. So we were not actually able to take depositions from
12 these individuals until September and October.

13 And I just want to be careful here because of the
14 number of things they told us there the defendants have marked
15 as confidential or attorneys' eyes only, but there are a number
16 of facts that we learned in discovery from the defendants in
17 those depositions that we did not know and we could not have
18 known before we took those depositions. Is I'm glad to go into
19 those now, but I want to make sure I'm respecting the
20 confidentiality part of the order.

21 THE COURT: At base, you are disagreeing with the
22 suggestion of Mr. Greenfield to the argument of Mr. Greenfield
23 that you had the information you needed to make these
24 amendments at an earlier time?

25 MR. DUNLAP: Correct, we did not have all of the

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1 information. Some of the information, yes, but we did not have
2 all of the dots to be connected, and that's what we tried to do
3 in discovery.

4 THE COURT: All right.

5 MR. DUNLAP: So we will follow whatever you want to do
6 here, clearly. If you think it's more effective for us to do
7 briefing on the motion for leave and push off class
8 certification, we are glad to do that.

9 THE COURT: Glad is a relative term, sir.

10 MR. DUNLAP: Yes, glad is a relative term. We prefer
11 to move the case forward, we prefer to do it in parallel, we
12 hear the concerns you're raising, we hear the concerns the
13 other side is raising. We will go along with whatever you
14 would like. And if you're going to grant the other side extra
15 pages, we might have a request of our own for the reply, but
16 let's take a look and see what they have to say, especially if
17 they're going to be briefing -- we, in our opening motion, we
18 tried to brief both why we met Rule 15 and why it would not be
19 futile, why it would be pass Rule 12(b).

20 THE COURT: My recollection of your briefing was that
21 the focus was on the absence of prejudice that could be
22 demonstrated; am I not correct? I believe what you were
23 talking about was that your adversaries would not be able to
24 demonstrate prejudice. And I think that there's more. I'm not
25 sure that your brief, and forgive me if I'm not remembering

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1 something in it, I'm not sure it really engaged on the issue of
2 the good cause point.

3 MR. DUNLAP: Well, our brief tried to do a couple of
4 things. The first section of the brief tried to engage on why
5 there was good cause and why there was lack of prejudice, and
6 we talked about our diligence, we talked about the fact that
7 we're not seeking any new discovery, we talked about a number
8 of things going to those factors, and then the back half of the
9 brief, the bulk of the brief was why we stayed claims under
10 Rule 12(b)., and so why the amendment would not be futile.

11 THE COURT: Just one moment, please. Thank you.

12 Perhaps I can be more explicit in what I mean when I'm
13 talking about the rule. What I understand the inquires for me
14 to conduct are the one under Rule 15 and the one under Rule 16.

15 With respect to Rule 16, it's the issue of good cause.
16 When I typically think about good cause, what I'm usually
17 seeing is someone saying to me that information was withheld
18 from them or it wasn't until a particular deposition, and your
19 good cause argument is three pages -- two and a half pages
20 long. It does seem to focus on the showing of undue prejudice,
21 it doesn't seem to focus on the good cause. But, again, that's
22 my recollection of the document, which I'm trying to refresh as
23 I talk to you. But maybe that is this is the argument you wish
24 to make.

25 MR. DUNLAP: No, I understand the point you're making.

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1 We did focus on the lack of prejudice. We will be glad -- if
2 they're really going to allege that we had all the information
3 necessary to make the allegations we did before completing
4 depositions, we will be glad to respond to that and lay out how
5 that is absolutely not the case. But we did say that there was
6 relevant information that was disclosed in discovery and we
7 went through a number of those documents in the background
8 section. Again, I don't want to --

9 THE COURT: We're not arguing with each other.

10 MR. DUNLAP: Exactly.

11 THE COURT: I'm just saying there's going to be an
12 opposition that says you knew all of this some time ago and
13 could have done this long ago, and I don't know that you've
14 answered that here, and perhaps that is what the reply is for.

15 MR. DUNLAP: Yes.

16 THE COURT: Unfortunately, sir, I don't think you've
17 persuaded me that these can run in parallel. So perhaps what I
18 can ask is for you and Mr. Greenfield and your teams to speak
19 to each other, to discuss a schedule, including page
20 extensions, that would be realistic and that I might actually
21 sign off on.

22 So can I ask you to do that by the end of the week or
23 is that asking too much?

24 MR. DUNLAP: I believe it's okay for us.

25 MR. GREENFIELD: Yeah, that's fine.

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1 THE COURT: Then we will have to adjourn the motion
2 for class certification, again, with much regret because I
3 don't see a way around it.

4 Does anyone want to bring anything else to my
5 attention?

6 MR. DUNLAP: Not from the plaintiffs.

7 MR. GREENFIELD: No.

8 THE COURT: I'll look for your schedule. I thank you
9 all very much. I'll let you go. Thank you. We're adjourned.

10 * * *